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"Blagojevich has put pay-to-play on the agenda"

Damon W. Root | January 16, 2009, 4:18pm

The Wall Street Journal reports that campaign finance reform advocates are busily making the most of the Rod Blagojevich scandal:

Good-government advocates have stepped up their calls for states and the federal government to crack down on money in politics, particularly so-called pay-to-play practices in which businesses give favors or gifts to politicians in the hope of getting some benefit in return. State legislatures across the U.S. are considering laws curbing campaign contributions, efforts that civil-liberties proponents say could threaten free speech.

[...]

"Blagojevich has put pay-to-play on the agenda" nationwide, says Craig Holman, a lobbyist for Public Citizen, a Washington nonprofit that advocates for campaign spending limits. Mr. Holman says he has received requests in the last two weeks to work on possible play-to-play legislation in Georgia, Montana and Pennsylvania.



[More here.](#)

Back in October, former Federal Election Commission chief Brad Smith spoke with Reason.tv about how campaign finance laws pervert politics and punish political speech. Click below to watch.



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Corruption Cases Renew Debate on Campaign-Finance Laws

By NATHAN KOPPEL

Should free speech be curbed in the name of good government? The debate, which has hovered over U.S. political campaigns for years, has taken on new fervor in the wake of recent political scandals.

Good-government advocates have stepped up their calls for states and the federal government to crack down on money in politics, particularly so-called pay-to-play practices in which businesses give favors or gifts to politicians in the hope of getting some benefit in return. State legislatures across the U.S. are considering laws curbing campaign contributions, efforts that civil-liberties proponents say could threaten free speech.

The push for reform has been fueled by high-profile allegations of corruption, including those against Gov. Rod Blagojevich of Illinois and former Sen. Ted Stevens of Alaska. Mr. Blagojevich has denied wrongdoing, while Mr. Stevens was convicted of lying about illegal gifts he allegedly received from a campaign supporter.

"Recent scandals show that some politicians are more than happy to trade away their offices for private gain," says Karen Hobert Flynn, a vice president for state operations at Common Cause, a Washington-based government watchdog.

Legislative efforts to rein in campaign spending have almost always attracted stiff resistance; political donations, the argument goes, are a vital way to express one's political views.

Yet the courts in recent years have rejected free-speech arguments in campaign-finance cases, saying that states have a compelling interest in imposing strict limits on spending. And recent scandals have galvanized public support for that view, with some voters and legislators willing to tolerate a curb on political speech in exchange for clamping down on cronyism.

Colorado voters in November passed a ballot initiative restricting campaign contributions from state contractors. Illinois also enacted a law this month putting limits on contractors' donations to state officials. The new statute came weeks after federal authorities accused Gov. Blagojevich of solicitation of bribery, including allegedly trying to sell President-elect Barack Obama's Senate seat.

"Blagojevich has put pay-to-play on the agenda" nationwide, says Craig Holman, a lobbyist for Public Citizen, a Washington nonprofit that advocates for campaign spending limits. Mr. Holman says he has received requests in the last two weeks to work on possible play-to-play legislation in Georgia, Montana and Pennsylvania.

In New Mexico, where Gov. Bill Richardson's administration has been ensnared in a pay-to-play investigation, state Senator-elect Tim Keller of Albuquerque says he plans to introduce pay-to-play legislation this month. And Wednesday, Massachusetts state Senator Jamie Eldridge introduced legislation that would limit the ability of state contractors to contribute to politicians, or even to solicit donations.

Currently, many states don't expressly regulate against pay-to-play. Politicians who trade government favors for gain can be prosecuted for bribery and extortion, but such charges are hard to bring, requiring proof of a quid pro quo. "You can give money, but if it's a quiet conversation, not wiretapped, how can you prove a crime?" Ms. Hobert Flynn says.

But some fear the push to restrict campaign-finance contributions could trample free-speech rights. What about the "thousands and thousands of people who may be prevented from giving contributions who have done no wrong?" says James Bopp Jr., general counsel of the James Madison Center for Free Speech in Terre Haute, Ind. When states ban political giving by all lobbyists, they cast a wide net that could capture people who have no quid pro quo expectation. Just because it is difficult to criminally prosecute pay to play doesn't justify laws assuming certain types of donors are suspect, says Michael Macleod-Ball, chief legislative counsel at the American Civil Liberties Union.

Critics of campaign-spending limits also note that a law won't stop corrupt politicians from finding a way to profit from their role.

The U.S. Supreme Court has held contributions can be limited in the interest of preserving the integrity of the political process even if they are a form of expression. Last month, U.S. District Judge Stefan Underhill of Connecticut considered a free-speech challenge to a 2005 state law banning

campaign contributions from lobbyists and contractors, along with certain of their family members. The law came in the wake of a high-profile scandal that landed former Gov. John Rowland in jail. Judge Underhill upheld the spending limits, ruling that the state was justified in "eliminating contributions from individuals with the means and motive to exercise undue influence over elected officials."

Other courts around the country have upheld laws banning contributions from lobbyists, liquor licensees and individuals associated with the casino industry.

Campaign-finance-reform advocates say spending limits don't unduly squelch free speech. Campaign contributions, after all, aren't the only way lobbyists can express their political views. Connecticut's Judge Underhill noted the possibility of putting up yard signs or making get-out-the-vote calls for favored candidates. Moreover, he said, states have an interest in rooting out not only actual corruption, but the perception of corruption, which erodes trust in public officials.

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